

Excerpts  
Planning Commission Minutes  
August 11, 2004

**Application No. UP-642-04, Carpe P.M., Inc.:** Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 18) to authorize a nightclub to be operated as part of a planned 1,970-square foot restaurant to be located at 264A and 264B McLaws Circle within the Festival Marketplace shopping center. The property is located within both York County and James City County. The portion of the property located within York County is zoned GB (General Business) and is identified as Assessor's Parcel No. 15-4-3A, and the portion in James City County is zoned M1 (Limited Business/Industrial) and is identified as Parcel ID 5020900002B. The property is located on the east side of McLaws Circle, approximately 200 feet south of its intersection with Busch Way. The property is designated for General Business development in the Comprehensive Plan.

**Ms. Amy Parker**, Senior Planner, presented a summary of the staff memorandum dated August 3, 2004, in which the staff recommended approval. She added that comments were solicited but none were received from James City County or other occupants of the building in which the proposed restaurant would be sited. She noted Sheriff Diggs had no concerns with the use given the proposed approval conditions.

**Mr. Ptasznik** asked if the restaurant with dance floor would be allowed by right in James City County. **Ms. Parker** said the dance floor would be considered as accessory to the restaurant in James City County and would not require a special use permit. Because of where the county line falls, she added, York County has permitting authority.

**Mr. Harvell** asked if the Fire Marshal had commented on the application. **Ms. Parker** said the Department of Fire and Life Safety reviewed the application and had no comments. She noted the unit had four exits and room in the front and back for emergency vehicles.

**Mr. Davis** asked what other nightclubs exist in the County and what limitations the County can impose on other activities besides dancing that could take place in a nightclub.

**Ms. Parker** did not know how many nightclubs are in York County.

**Mr. Barnett** noted the application is for a restaurant, defined as a business that serves food. When a dance floor is added, the use also becomes a nightclub. Adding a dance floor to a restaurant does not increase the possibility for other kinds of activities other than dining and dancing.

**Vice Chair Ptasznik** opened the public hearing.

**Mr. Allen Ennis**, 105 Brookshire Crescent, Newport News, spoke of his plans for the restaurant. He wants to provide an upscale restaurant catering to a primarily local clientele that respects the reputation of the Williamsburg area. Music would be from the 1960s to the 1980s, appealing to a mature clientele. Dancing would not start until 9:30 PM. No band or live entertainment will be

used, only music from CDs or tapes. The sound system has been tested and the music should not extend beyond the interior of the restaurant.

**Mr. Ennis** said security staff, identifiable by their attire, would patrol the parking lot and interior. Lunch and dinner will be served. He said because most businesses in the building close between 6 and 8 PM, ample spaces in the parking lot would be available. He believed the restaurant could create more income for the Pancake House and the nearby Italian restaurant.

**Mr. Davis** asked Mr. Ennis if he has other nightclubs. **Mr. Ennis** said he does not, explaining that he is an active entrepreneur who has helped friends establish businesses including some high-scale bars in the Suffolk area and a home theater business in the Williamsburg area.

**Mr. Barba** asked if tables would be moved for dancing, and **Mr. Ennis** said the tables will be portable.

**Mr. Hamilton** inquired about signage and lights. **Mr. Ennis** said the windows on the restaurant's south side are blacked out and windows at the front will be tinted to allow vision only from the inside out. He has no plan to attract people from Route 60, he added.

**Mr. Harvell** inquired about the occupancy. **Mr. Ennis** said several floor plans are being considered, so at this time the occupancy limit is not certain.

**Mr. Ptasznik** asked if a disc jockey or small combo would be employed at times. **Mr. Ennis** said only a computer that also can project classic videos on the wall would generate the music, reiterating there will be no live bands or DJs.

**Vice Chair Ptasznik** closed the public hearing.

**Mr. Harvell** expressed concern about occupancy and how much area people standing around the dance floor would use. **Ms. Parker** said the occupancy allowance would be based on the highest use of this multiple-use application and that determination will take place in accordance with state building codes when final plans are submitted.

**Mr. Barba** moved adoption of Resolution PC04-20.

PC04-20

On motion of Mr. Barba, which carried 5:1 (Mr. Davis dissenting, Mr. Simasek absent), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT  
TO AUTHORIZE A NIGHTCLUB/RESTAURANT AT 264A AND 264B MCLAWS  
CIRCLE WITHIN THE FESTIVAL MARKETPLACE SHOPPING CENTER**

WHEREAS, Allen G. Ennis and Tien Kim Le, Carpe P.M., Inc have submitted Application No. UP-642-04, which requests a special use permit, pursuant to Section 24.1-306 (Category 11,

No. 18) of the York County Zoning Ordinance, to authorize a 1,970-square foot restaurant and nightclub within the Festival Marketplace shopping center located at 264A and 264B McLaws Circle. The property is located on the east side of McLaws Circle, approximately 200 feet south of its intersection with Busch Way, and is identified as Assessor's Parcel No. 15-4-3A.

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of August, 2004 the Application No. UP-642-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a 1,970-square foot restaurant and nightclub within the Festival Marketplace shopping center located at 264A and 264B McLaws Circle subject to the following conditions:

1. This use permit shall authorize a 1,970-square foot restaurant and nightclub located within the Festival Marketplace shopping center located at 264A and 264B McLaws Circle and further identified as Assessor's Parcel No. 15-4-3A.
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of the proposed nightclub. Said site plan shall be in substantial conformance with the sketch plan submitted by the applicant and received by the Planning Division on July 1, 2004, except as modified herein or as may be necessary to comply with site plan review requirements.
3. At time of site plan approval, a detailed parking tabulation for the shopping center shall be submitted to and approved by Environmental and Development Services. The tabulation shall take into account all current uses as well as the proposed use with their corresponding parking requirements.
4. Noise from the proposed use shall be contained within the subject shopping center units, and noise shall not be audible outside the confines of the units.
5. The hours of operation of the facility shall be limited from 11:00 a.m. to 2:00 a.m. daily.
6. There shall be no loitering of patrons outside the facility or in the adjacent parking lot, and the applicant shall be responsible for monitoring the immediate area to prevent loitering.
7. Parking lot lighting shall remain active until at least one hour after closing time for the facility.
8. The applicant shall be responsible for removal of any trash or debris from their portion of the parking lot daily.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the

applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

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